ABA PANEL
PFAS: Impacting Site Remediation and Litigation for Years to Come?
Talking Points for Assistant Administrator
Alexandra Dunn

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I am here today to share with you the actions the EPA is taking to provide states, tribes, and communities with the tools they need to effectively address PFAS chemicals, particularly where they pose a risk to human health. I will also provide a summary of the agency's recently released PFAS Action Plan, a comprehensive, multi-media Action Plan designed to address PFAS chemicals more holistically.

SLIDE 2:

- Per- and polyfluoroalkyl substances (PFAS) are a group of man-made chemicals that have been in use since the 1940s.
- There are many PFAS chemicals, including the chemicals perfluorooctanoic acid (PFOA), perfluorooctane sulfonate (PFOS), and GenX chemicals (HFPO dimer acid and its potassium salt).

SLIDE 3:

- **Many** PFAS can be very persistent in the environment with degredation over years, decades or longer. [**NOTE**: *"Many" - not all – don't generalize*]
- The two most studied PFAS are Perfluorooctanoic Acid (PFOA) and Perfluorooctane Sulfonate (PFOS).

SLIDE 4:

- PFAS are (or have been) found in a wide array of consumer products like cookware, food packaging, and water-repellant clothing. *[**NOTE:** some of these uses would NOT be under*

TSCA's purview, e.g. food packaging]

- PFAS chemicals have also been used in aqueous film-forming foams.
- PFAS chemical manufacturing and processing facilities and airports and military installations that use firefighting foams are some of the contributors of PFAS chemical releases into the air, soil, and water, including sources of drinking water.

SLIDE 5:

- Because of their widespread use, most people have been exposed to PFAS chemicals.
- **Some** PFAS chemicals can accumulate and stay in the human body for long periods of time. There is evidence that exposure to certain PFAS chemicals may lead to adverse health effects. *[**NOTE**: "Some PFAS" - not all – don't generalize] [**NOTE:** "certain PFAS" – only certain…those that have been studied; many have not been well studied for health effects.]*

SLIDE 6:

- The EPA has taken steps over the past several years using its statutory authorities to understand and address these chemicals in commerce and in the environment.
    - For example, PFOA and certain PFOA-related chemicals are no longer manufactured in the United States as a result of the Office of Pollution Prevention and Toxic's PFOA Stewardship Program in which eight major chemical manufacturers agreed to phase out the use of PFOA and PFOA-related chemicals in their products and as emissions from their facilities. All companies met the PFOA Stewardship Program goals by 2015. *[**NOTE**: this is a voluntary, not statutory, program]*

      *[**NOTE**: Although long-chain PFAS are not produced domestically by the*

companies participating in the PFOA Stewardship Program, long-chain PFAS may still be produced domestically, imported, and used by companies not participating in the PFOA Stewardship Program. So, the 8 companies that participated do not constitute ALL manufacturers]

- In support of this effort, through the EPA's work under the Toxic Substances Control Act (TSCA), the agency has also issued various significant new use rules (SNURs) to require EPA review before any "new use" of certain PFAS described in the rule can begin again.

- The EPA's Office of Water has also worked with the states and local communities to monitor for six PFAS chemicals under the Safe Drinking Water Act (SDWA)'s Unregulated Contaminant Monitoring Rule (UCMR) to understand the nationwide occurrence of these chemicals in our drinking water systems.

- In 2016, the EPA issued drinking water lifetime health advisories for PFOA and PFOS of 70 parts per trillion, individually or combined. [***NOTE:*** *Health advisories are non-regulatory values that help to provide technical information to state agencies and other public health officials on the level of PFOA and PFOS that would provide Americans, including the most sensitive populations, with a margin of protection from a lifetime of exposure to PFOA and PFOS in drinking water.*]

SLIDE 7:

- EPA has been working to advance research on other PFAS chemicals to better understand their health impacts, exposure pathways, options for treatment and removal. The Agency:

  - Released draft toxicity assessments for GenX chemicals and PFBS

- Announced the initiation of assessments for five additional PFAS (PFBA, PFHxS, PFHxA, PFNA, PFDA) via the EPA's IRIS Program. *[NOTE: A "cheat sheet" on these acronyms is being developed for you]*

- Issued enforcement orders, provided oversight for federal agency cleanups and assisted state enforcement actions, and

- Provided technical assistance related to dozens of areas of PFAS contamination around the country.

SLIDE 8:

- To build on these actions, in May 2018, the EPA convened a two-day National Leadership Summit on PFAS in Washington, D.C. that brought together more than 200 federal, state, and local leaders from across the country to discuss steps to address PFAS chemicals.

- The Summit provided an opportunity to share information on ongoing efforts, to identify specific short-term strategies and long-term solutions, and to address risk communication challenges.

- Following the Summit, the agency hosted a series of visits during the summer of 2018 in communities directly impacted by PFAS.

- The Action Plan was developed based on feedback from the National Summit and a series of events which followed and included more than 1,000 participants. The EPA also provided an opportunity for the public to submit written comments to a public docket, and the agency received approximately 120,000 comments that the EPA also considered when developing the Action Plan.

- The EPA continues to provide support to states, tribes, and communities who are addressing

PFAS issues. The agency is also committed to working with our federal partners, including the Department of Defense and the Department of Health and Human Services, on response actions and continuing research into the health and environmental impacts of these substances.

SLIDE 9:

- On February 14, 2019, the EPA released its PFAS Action Plan.
- The Action Plan:
    - Represents the first time the EPA has built a national, multi-media, multi-program, research, management, and risk communication plan to address an emerging class of chemicals of concern like PFAS, and
    - Responds to extensive public input
- The Plan identifies both short-term solutions for addressing PFAS chemicals and long-term strategies that will help provide the tools and technologies states, tribes, and local communities need to clean up sites and to provide clean and safe drinking water to their residents.

Let me highlight some of the major actions described in the Action Plan….

SLIDE 10:

Drinking Water:

- The EPA is committed to following the Maximum Contaminant Levels (MCL) rulemaking process as established by the Safe Drinking Water Act—a process that is designed to ensure public participation, transparency, and the use of the best-available science and other technical information.

- As its next step, the EPA will propose a regulatory determination for PFOA and PFOS by the end of this year.

- The Agency is also gathering and evaluating information to determine if regulation under SDWA is appropriate for a broader class of PFAS chemicals.

SLIDE 11:

Cleanup:

- The Agency will facilitate cleanup efforts by providing groundwater cleanup recommendations.

- The EPA has initiated the regulatory development process for proposing to designate PFOA and PFOS as Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) hazardous substances and is developing interim groundwater cleanup recommendations for sites contaminated with PFOA and PFOS.

- This important work will provide the EPA with additional options to help states, tribes, and local communities address existing contamination and can enhance the ability to hold responsible parties accountable.

SLIDE 12:

Monitoring:

- The EPA will propose to include additional PFAS chemicals in the next round of nationwide drinking water monitoring under the UCMR program. This will improve the EPA's understanding of the frequency and concentration at which these PFAS chemicals occur in drinking water. This additional monitoring will utilize newer methods that will detect more PFAS chemicals and some at lower levels.

Research:

- Through additional research, the EPA will expand the scientific foundation for understanding and managing risk from PFAS.
- The EPA will develop new analytical methods so that more PFAS chemicals can be detected in drinking water, in soil, and in groundwater. These efforts will improve our ability to monitor PFAS, understand exposures, and assess potential risks.
- The EPA's research efforts also include developing new technologies and treatment options to remove PFAS chemicals from drinking water and at contaminated sites. EPA will also focus Office of Research and Development efforts on PFAS issues in rural and agricultural communities.

SLIDE 13:

Toxics:

- The EPA will also consider certain PFAS chemicals for listing in the Emergency Planning and Community Right-to-Know Act (EPCRA)'s Toxics Release Inventory (TRI) to help the agency identify where these chemicals are being released.
- The Agency is issuing a supplemental proposal to a Significant New Use Rule to require EPA review before certain PFAS chemicals and uses that have ceased can begin. ***[NOTE:*** *The Reg Agenda due out soon indicates September 2019 for the supplemental proposal; Tala also indicated "this year" at the Hill Briefing]*

SLIDE 14:

Enforcement:

- The EPA will continue its ongoing enforcement investigations, create tools to help identify

potential sources of PFAS releases, and assist states in their potential enforcement activities.

- Where the EPA finds that there may be an imminent and substantial endangerment to public health, the agency will consider using its response authority under CERCLA section 104, or its authorities such as SDWA section 1431 or section 7003 of the Resource Conservation and Recovery Act (RCRA).

Risk Communications:

- The EPA will work across the agency—and the federal government—to develop a PFAS risk communication toolbox that includes materials that states, tribes, and local partners can use to effectively communicate with the public.
- It is imperative that all levels of government communicate accurately with the public about what is known and not known about PFAS chemical exposure and human health impacts.

SLIDE 15:

- In summary, the items identified in the PFAS Action Plan will help the EPA and its partners address PFAS and protect public health.
- To implement the Action Plan, the EPA will continue to work in close coordination with multiple entities, including other federal agencies, states, tribes, local governments, water utilities, the regulated community, and the public.
- Updates on the plan's actions will be provided on the Agency's website.

I would like to now touch on some of the work my office, the Office of Chemical Safety and Pollution Prevention, has been doing and undertaking with other offices across EPA…

SLIDE 16:

- As required by amended TSCA EPA recently updated the TSCA Inventory giving us more information on the numbers of PFAS chemicals.
  - 1223 PFAS chemicals have been identified as on the TSCA inventory
  - 602 are active in commerce
  - 621 are inactive in commerce for the past ten years
  - 45% of the total (1223) have been reviewed by the new chemicals program
  - 58% of the active (602) have been reviewed by the new chemicals program
- EPA has and will continue to review alternatives to long-chain PFAS chemicals.
  - Since 2000, EPA has reviewed about 300 PFAS alternatives.
  - EPA has regulated about 200 of these cases through a combination of TSCA 5(e) consent orders and SNURs

SLIDE 17:

- Examples of conditions or limits that may be contained in Consent Orders include (any or all):
  - Toxicity testing or environmental fate determinations Hazard communication language
  - Manufacturing, processing, distribution and/or use restrictions
  - Restrictions on release to water, air, and/land
  - Recordkeeping
- Another tool we can use under TSCA is to issue a Significant New Use Rule or "SNUR" for a PFAS chemical. These SNURs:
  - Require manufacturers to notify the Agency at least 90 days before starting or resuming new uses of a chemical.

- EPA is required to review this new use and make an affirmative determination and take any action if necessary on this determination.

- In 2015 EPA proposed a SNUR to complement the long-chain PFAS phase out under the PFOA Stewardship Program. EPA is in the process of considering public comments, in light of the new requirements under TSCA, as we work to issue a supplemental proposed SNUR for the import of certain long-chain PFAS as part of categories of certain articles.

- As I mentioned earlier supplemental proposed SNUR would require EPA review before certain PFAS chemicals and uses designated in the rule may begin.

SLIDE 18:

- As I mentioned earlier we are also considering certain PFAS chemicals for listing in EPCRA's Toxics Release Inventory or "TRI" to help the agency identify where these chemicals are being released.

- TRI requires annual reporting of chemical releases by industrial and federal facilities. This annual release of information is important to communities, government agencies, companies, and interested stakeholders to support informed decision-making.

- In considering the listing of PFAS chemicals on TRI, EPA must determine whether information is available to fulfill the statutory listing criteria, and the extent and utility of the data that would be gathered. If EPA moves forward with this action it would include notice and comment rulemaking.

SLIDE 19:

- Finally, I want to briefly mention a research initiative that will assist in managing PFAS

chemical issues that may have direct impact on agricultural and rural economies.

- In February, Administrator Wheeler highlighted the need for research on PFAS chemicals specifically with respect to contaminated irrigation water and soil systems.
- EPA's Office of Research and Development with USDA and other Federal Partners will be directing existing funds immediately to research projects that will generate applications to help manage PFAS chemical issues in agricultural and rural areas.